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CIGNA LIFE INSURANCE COMPANY OF NEW YORK, erroneously sued as LIFE INSURANCE COMPANY OF NORTH AMERICA, and PFIZER, INC.

UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

COURTNEY HALBROOKS, Plaintiff, vs. LIFE INSURANCE COMPANY OF NORTH AMERICA; and PFIZER, INC. Defendants.	Case No.: 08-CV-1466 LAB (NLS) **DEFENDANTS' ANSWER TO COMPLAINT AND AFFIRMATIVE DEFENSES** Action Filed: July 8, 2008 Action Removed: August 12, 2008

Come now, Defendants CIGNA Life Insurance Company of New York ("CLINY"), erroneously sued as Life Insurance Company of North America and Pfizer, Inc. ("Pfizer") ("collectively "Defendants") and answer the Complaint filed by Plaintiff Courtney Halbrooks ("Plaintiff") in this matter.

ANSWER

1. Defendants admit, upon information and belief, the allegations in paragraph 1 of the Complaint.

2. Defendants deny the allegation in paragraph 2 that Life Insurance Company of North America is a proper defendant. The insurance policy at question was issued by CLINY. In addition, Defendants deny that Pfizer is a proper defendant to the extent that Pfizer is neither the claim or plan administrator of the employee welfare benefit plan at issue. Except as so expressly admitted, Defendants deny the allegations in paragraph 2 of the Complaint.

3. Defendants deny the allegations in paragraph 3 of the Complaint.

4. Defendants admits that Plaintiff has asserted a claim for long-term disability benefits. Except as so expressly admitted, Defendants deny the allegations in paragraph 4 of the Complaint.

5. Defendants admit that the Superior Court of California for the County of San Diego was the proper venue for this matter and, therefore, that the United States District Court for the Southern District of California is the proper venue for this litigation in federal court.

6. Defendants are without sufficient information or knowledge to understand the reference to zip code 92121 in paragraph 6 of the Complaint, and on that basis deny the allegations in paragraph 6 of the Complaint.

7. Defendants admit the allegations in paragraph 7 of the Complaint.

8. Defendants admit the allegations in paragraph 8 of the Complaint.

9. Defendants are without sufficient information or knowledge to enable them to either admit or deny the allegations of paragraph 9 of the Complaint, and on that basis deny the allegations in paragraph 9 of the Complaint.

10. Paragraphs 10 and 11 of the Complaint are attestations by the Plaintiff and do not require a response.

AFFIRMATIVE DEFENSES

1. As a first affirmative defense, Defendants allege that Plaintiff has failed to state a claim for relief against Defendants.

2. As a second affirmative defense, Defendants allege that Plaintiff's exclusive remedy is that set forth in 29 U.S.C. § 1132(a)(1)(B).

3. As a third affirmative defense, Defendants allege that Plaintiff has failed, refused and/or neglected to take either reasonable, necessary or any steps whatsoever to mitigate any damages allegedly incurred as a result of Defendants' alleged conduct.

4. As a fourth affirmative defense, Defendants allege that Plaintiff failed to meet or perform all the necessary covenants, conditions and/or promises required to be performed in accordance with the terms and conditions of the policy at issue in this action.

5. As a fifth affirmative defense, Defendants allege that Plaintiff, under the terms of the policy and under ERISA, is required to provide proof of disability. The administrative record in this matter, evaluated in its entirety, establishes that Plaintiff has not met this requirement.

6. As a sixth affirmative defense, Defendants allege that the claim determination at issue was based on substantial evidence, and as such did not constitute an abuse of discretion. Therefore, Plaintiff is not entitled to recovery of plan benefits.

7. As a seventh affirmative defense, Defendants allege that the determinations regarding Plaintiff's claim for benefits were neither arbitrary nor capricious, but rather were rational and reasonable based on the evidence submitted by her and comprising the Administrative Record, were made in good faith and were a lawful exercise of sound discretion.

8. As an eighth affirmative defense, Defendants allege that all determinations made by Defendants with respect to Plaintiff's claim for benefits were made in the interest of all plan participants and beneficiaries and in accordance with the terms and conditions of the Plan.

9. As a ninth affirmative defense, Defendants alleges Plaintiff's asserted damages, if any, must be reduced by the amount in benefits/income received by Plaintiff from those sources of income and or benefits specified in the Policy.

10. As a tenth affirmative defense, Defendants allege that in the event that Plaintiff is entitled to benefits, she is only entitled to back benefits under the specific definition of disability stated in the policy. Any decision concerning her entitlement to benefits in the future must be made by the claims administrator, not the Court.

11. As an eleventh affirmative defense, Defendants allege that Plaintiff's claim for relief is barred by the equitable doctrine of unclean hands.

12. As a twelfth affirmative defense, Defendants allege that Plaintiff's claim for relief is barred by the equitable doctrine of estoppel.

13. As a thirteenth affirmative defense, Defendants allege that Plaintiff has waived any claim for benefits under the policy.

14. As a fourteenth affirmative defense, Defendants allege that because this action involves claims under ERISA, Plaintiff is not entitled to a jury trial.

WHEREFORE, Defendants prays for judgment in its favor as follows:

1. That Plaintiff takes nothing by reason of the Complaint on file herein;
2. That Defendants be awarded their costs and expenses incurred in this action;
3. That Defendants be awarded their attorney's fees incurred in this action; and
4. That Defendants recover such other relief as the Court may deem just and proper.

Dated: August 19, 2008

WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP

By: /s/ Russell H. Birner
ADRIENNE C. PUBLICOVER
RUSSELL H. BIRNER
Attorneys for Defendants
CIGNA LIFE INSURANCE COMPANY OF NEW YORK, erroneously sued as LIFE INSURANCE COMPANY OF NORTH AMERICA, and PFIZER, INC.

PROOF OF SERVICE
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California, by WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP and am over the age of 18 and not a party to the within action. My business address is 555 South Flower Street, Suite 2900, Los Angeles, California 90071.

On August 19, 2008, I served the foregoing document described as **DEFENDANTS' ANSWER TO COMPLAINT AND AFFIRMATIVE DEFENSES** on all interested parties, through their respective attorneys of record in this action, by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Courtney Halbrooks
3315 Cheyenne
San Diego, CA 92117

xx **(BY MAIL)** I caused such envelope(s) fully prepaid to be placed in the United States Mail at Los Angeles, California. I am "readily familiar" with the firm's practice of collection and processing correspondence or mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

_ **(BY OVERNIGHT-FEDERAL EXPRESS)** I caused said document(s) to be picked up by U.S. Federal Express Services for overnight delivery to the offices of the addressees listed on the Service List.

_ **(BY HAND DELIVERY/PERSONAL SERVICE)** I caused said document(s) to be personally delivered by a courier/attorney service to each addressee on the Service list.

_ **(BY FACSIMILE)** I caused said document(s) to be telephonically transmitted to each addressee's telecopier (Fax) number as noted.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on August 19, 2008, at Los Angeles, California.

Colleen Uno

COLLEEN UNO